



Texas Independent Producers and Royalty Owners Association

Via Electronic Mail (Chapman.apple@epa.gov)

July 3, 2018

Ms. Apple Chapman
Deputy Director, Air Enforcement Division
U.S. Environmental Protection Agency
Mail Code 2242A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Comments of the Texas Independent Producers and Royalty Owners Association
in Response to the Environmental Protection Agency's Draft Audit Policy
Agreement for New Owners of Oil and Natural Gas Exploration and Production
Facilities.

Dear Deputy Director Chapman:

These comments are filed on behalf of the Texas Independent Producers and Royalty Owners Association (TIPRO). This document echoes the comments made by the Independent Petroleum Association of America (IPAA) and American Petroleum Institute (API) in response to the U.S. Environmental Protection Agency's (EPA) request for comments on its proposed changes to EPA's 2000 policy titled "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" ("Audit Policy") for new owners of oil and natural gas exploration and production facilities.

TIPRO is one of the largest oil and natural gas trade associations in Texas. Our nearly 3,000 members include the largest producers of oil and gas in the state, as well as hundreds of small to mid-sized independent operators, royalty owners, and service and supply industries that support the efforts of oil & natural gas production in this state. Independent producers drill about 90 percent of American oil and natural gas wells, produce 54 percent of American oil and produce 85 percent of American natural gas. Like most regulatory proposals, independent producers face far greater impacts to their companies as a result of this draft audit policy.

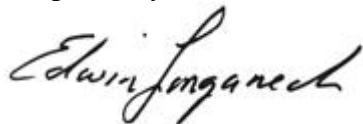
A new owner audit policy is a commendable proposal. Giving new owners the opportunity to self-report, and address, identified compliance issues without the threat of burdensome enforcement actions and penalties is precisely the type of joint effort between EPA and industry for management of environmental impacts that we should work towards. As proposed, however, this audit policy raises many questions that will be of consequence to the regulated oil and natural gas community, and highlights broader issues with the delegation of authority between EPA and state regulators.

For an agency with as much regulatory jurisdiction as EPA, managing ongoing compliance with environmental regulations across the United States is a monumental and understandably impossible undertaking. As a result, EPA has a long history of delegating federal regulatory authority to state agencies to manage this day-to-day compliance monitoring. We strongly encourage EPA to delegate this authority across the nation, and when such delegation has occurred, EPA's role should be to monitor the state process, not to continue monitoring and enforcing compliance above and beyond the state. Every business owner deserves a clear understanding of the rules and regulations imposed by governmental authorities on their business, and trying to comply with different sets of regulations from two separate regulating entities is a recipe for economic depression of an industry. Unfortunately, with the promulgation of New Source Performance Standards in 2011 and expansion in 2016 – Subpart 0000a – confusion and redundant regulatory enforcement between EPA and the states led to costly regulatory and litigation conflicts. This audit policy proposal stands to follow the same problematic structure, rife with duplication of efforts between EPA and state regulators.

The delegation of authority to individual states also makes sense when considering the diversity of state laws and regulatory policies, as well as the varying nature of operations that occur within each state. You would be hard-pressed to find any two states with exactly similar sets of circumstances relating to an industry like oil and natural gas, and their legal and regulatory frameworks reflect as much. This underscores another concern we have with this proposal; the use of EPA's Appendix B structure for the audit policy. Appendix B appears to be an amalgamation of varying elements of regulation from several different states, as well as EPA's consent decree relating to Subpart 0000a that was formed out of controversial and confrontational enforcement actions in EPA Region 8. Both of these inclusions are particularly concerning given that neither of them truly acknowledges the need for custom and individualized regulations from state to state. Trying to impose a nationwide regulation that forces an industry to "fit in a box" will result in a tedious, illogical, and unnecessary hindrance for our members that will undoubtedly impact our economy as a whole.

TIPRO appreciates the opportunity to provide these comments and, again, applauds the concept of a new owner audit policy. If EPA can address the concerns shared by our members and countless other organizations, we believe this policy could be a model for all regulatory agencies on how to achieve meaningful, impactful regulation that does not over-burden the community it is imposed upon.

Respectfully submitted,

A handwritten signature in black ink, reading "Edwin Longanecker". The signature is fluid and cursive, with the first name "Edwin" being more prominent than the last name "Longanecker".

Ed Longanecker

President

TIPRO

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